

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

WORCESTER, ss.

| | | |
|----------------------|---|-----------------------|
| In re: |) | Chapter 7 |
| |) | Case No. 23-40709-CJP |
| WESTBOROUGH SPE LLC, |) | |
| |) | |
| Debtor. |) | |
| |) | |

MOTION TO COMPEL RELEASE OF APPRAISAL AND RELATED DOCUMENTS

Now comes, Lolonyon Akouete, a creditor and interested party in the above-captioned case, and hereby moves this Honorable Court for an order compelling the release of the appraisal and any related documents regarding the property located at 231 Turnpike Road, Westborough, Massachusetts, which were obtained by the Town of Westborough in 2018 and provided during the discovery process in the related land court case.

In support of this motion, Mr. Akouete states as follows:

1. Background:

- The property at 231 Turnpike Road, Westborough, Massachusetts, is central to ongoing bankruptcy proceedings involving Westborough SPE LLC.
- The Town of Westborough conducted an appraisal of the property in 2018, which was provided during the discovery process in a related land court case.

2. Requests for the Appraisal:

- Since May 9, 2024, the undersigned has made several formal requests to the Town's attorney, the petitioning creditor, and former counsel of Westborough SPE LLC, seeking a copy of the appraisal and related documents.
- These requests were made through emails on May 9, July 31, August 1, and February 3, 2023, but have either been ignored or denied.
- The undersigned has been stonewalled by all parties involved, preventing access to this crucial information.

3. Relevance of the Appraisal:

- The appraisal is critical to the undersigned's ability to accurately assess the value of the property and to present this information to potential lenders.
- Without the appraisal, the undersigned is forced to incur unnecessary expenses to obtain a new appraisal, which could have been avoided if the requested documents were provided.
- The Town's refusal to release the appraisal appears to be an attempt to obstruct the undersigned's efforts to redeem the property.

4. Urgency Due to Upcoming Hearing:

- A hearing to approve a settlement between the Town of Westborough and the trustees is scheduled for August 20, 2024.
- The deadline to file objections to the proposed settlement is August 16, 2024, at 11:59 PM.

- The appraisal is essential for the undersigned to prepare and file a timely objection to the proposed settlement. Therefore, it is imperative that the appraisal and related documents be provided well in advance of the objection deadline.

5. Legal Grounds:

- The requested appraisal and related documents were produced during the discovery process and should be accessible to all parties involved in the litigation.
- The Town's refusal to release these documents is not justified, particularly given that the appraisal is a critical piece of evidence in the ongoing bankruptcy proceedings.
- The undersigned has made multiple good-faith efforts to obtain the appraisal, as evidenced by the attached email correspondence, but has been met with resistance.

Wherefore, the undersigned respectfully requests that this Honorable Court:

1. Issue an order compelling the Town of Westborough, the petitioning creditor, and the former counsel of Westborough SPE LLC to immediately release the 2018 appraisal and any related documents concerning the property located at 231 Turnpike Road, Westborough, Massachusetts.
2. Order that the appraisal be provided ahead of the August 16, 2024, objection deadline to allow the undersigned sufficient time to review the document and file an appropriate objection.
3. Award any other relief that the Court deems just and proper.

DATED: August 20, 2024, Respectfully submitted:

By creditor,



Lolonyon Akouete
800 Red Milles Rd
Wallkill NY 12589
info@smartinvestorsllc.com
(443) 447-3276

Exhibit 1

Lolonyon Akouete <info@smartinvestorsllc.com>

Request for Documents

4 messages

Lolonyon Akouete <info@smartinvestorsllc.com>

Thu, May 9, 2024 at 4:56 PM

To: Jose Centeio <jcc@natgolaw.com>Cc: Alvin Nathanson <asn@natgolaw.com>, "Scott A. Schlager" <sas@natgolaw.com>

Dear Jose,

I received a call from the Office of the Inspector General today. They are requesting any documents related to Lax Media LLC and the town in connection with the sale of 231 Turnpike Rd. I know we went through discovery in the land court case.

Since Scott is no longer with Nathanson & Goldberg, please advise on how I can obtain a copy of the discovery provided by the town to Nathanson & Goldberg when they were representing Westborough SPE LLC.

Thank you for your assistance in this matter.

Lolonyon Akouete
800 Red Mill Rd
Wallkill NY 12589
info@smartinvestorsllc.com
(443) 447-3276

Lolonyon Akouete <info@smartinvestorsllc.com>

Wed, Jul 31, 2024 at 6:14 AM

To: Jose Centeio <jcc@natgolaw.com>Cc: Alvin Nathanson <asn@natgolaw.com>, "Scott A. Schlager" <sas@natgolaw.com>

Dear Jose,

I am following up on my previous email dated May 9, requesting a copy of the discovery documents related to Lax Media LLC and the Town in connection with the sale of 231 Turnpike Rd. Specifically, I need a copy of the appraisal the Town obtained and other related documents.

To date, I have not received a response. This information is crucial for my case, and if I do not hear back from you by the end of the day, I will be compelled to file a motion requesting the court's assistance in obtaining these documents.

Your prompt attention to this matter would be greatly appreciated.

Thank you for your assistance.

Sincerely,

Lolonyon Akouete
800 Red Mill Rd
Wallkill, NY 12589
info@smartinvestorsllc.com
(443) 447-3276

[Quoted text hidden]

Lolonyon Akouete <info@smartinvestorsllc.com>

Thu, Aug 1, 2024 at 7:21 AM

To: Stephen Gordon <sgordon@gordonfirm.com>

Case 23-40709 Doc 229 Filed 08/09/24 Entered 08/09/24 11:44:50 Desc Main Document Page 4 of 9

Dear Stephen,

I hope this message finds you well.

I am reaching out to request your assistance in obtaining a response to my previous emails dated May 9 and July 31. These emails were directed to Jose Centeio, who I understand has replaced Scott A. Schlager at Nathanson & Goldberg, P.C. However, I have not received any response from Jose, and Scott previously advised me to contact Roger L. Smerage, the Town's attorney, who has also not responded.

To provide context, We had previously gone through discovery in the land court case when Nathanson & Goldberg was representing Westborough SPE LLC. I urgently need a copy of the appraisal obtained by the Town and any other related documents provided during that discovery process.

As I have not received a response to my previous requests, I am now seeking your intervention. This information is crucial for my ongoing case.

Your prompt attention to this matter would be greatly appreciated. Please let me know how I can obtain the necessary documents or if there are any further steps I need to take.

Thank you for your assistance.

Sincerely,

Lolonyon Akouete
800 Red Milles Rd
Wallkill, NY 12589
info@smartinvestorsllc.com
(443) 447-3276

[Quoted text hidden]

Stephen Gordon <sgordon@gordonfirm.com>
To: Lolonyon Akouete <info@smartinvestorsllc.com>

Thu, Aug 1, 2024 at 1:40 PM

Lolo-

I have asked Nathanson & Goldberg to review their file to see if they have an appraisal from the Town and other discovery. I will report as soon as I hear from them.

Best,

Steve

Stephen F. Gordon
The Gordon Law Firm LLP
River Place
57 River Street
Wellesley, MA 02481
Main: 617-261-0100
Direct: 617-456-1270
Sgordon@gordonfirm.com
www.GordonFirm.com

[Quoted text hidden]



Exhibit 2

Lolonyon Akouete <info@smartinvestorsllc.com>

Request for Copy of Appraisal from 2018

1 message

Lolonyon Akouete <info@smartinvestorsllc.com>To: "Roger L. Smerage" <rsmerage@k-plaw.com>

Wed, Jul 31, 2024 at 6:49 AM

Dear Roger Smerage,

I hope this message finds you well.

I am writing to formally request a copy of the appraisal obtained by the Town in 2018 related to the property at 231 Turnpike Road, Westborough, MA. This appraisal was previously provided during the discovery process. However, I did not receive a copy of it as my previous attorney retained it.

This document is essential for my current proceedings. Previously, the Town did not provide this information, because they do not want me to obtain proof of funds necessary to redeem the property. Given the context and its inclusion in discovery, I kindly request that you provide me with a copy of the appraisal at your earliest convenience.

Your cooperation in this matter is greatly appreciated. Please let me know if there are any formalities I need to complete or additional information you require to facilitate this request.

Thank you for your assistance.

Sincerely,

Lolonyon Akouete
800 Red Mill Rd
Wallkill, NY 12589
info@smartinvestorsllc.com
(443) 447-3276

Appraisal.pdf
196K



Exhibit 3
Lolonyon Akouete <info@smartinvestorsllc.com>

19 TL 000768 Town of Westborough v. Westborough SPE, LLC , et al.

Lolonyon Akouete <info@smartinvestorsllc.com>

Fri, Feb 3, 2023 at 2:41 PM

To: Iris Leahy <AttyLeahy@outlook.com>

Cc: "loloact2@gmail.com" <loloact2@gmail.com>, denise Edwards <deniseedwards818@yahoo.com>

Hello Ms. Leahy,

Would the Town respond to my request for a copy of the Appraisal from 2018?

The Appraisal will help me obtain the proof of funds you requested.

Why is your office closed until the day before the hearing? Is it because you are away?
Does the Town have other attorneys that can back you up? Such as Dawn E Bloom, Esq. or Thomas William McEnaney, Esq.?

Thank you in advance for your response.

Lolonyon Akouete
1241 Deer Park Ave., Suite 1, #1051
North Babylon, NY 11703
info@smartinvestorsllc.com
(443) 447-3276

[Quoted text hidden]



Lolonyon Akouete <info@smartinvestorsllc.com>

19 TL 000768 Town of Westborough v. Westborough SPE, LLC , et al.

Iris Leahy <AttyLeahy@outlook.com>

Thu, Feb 9, 2023 at 11:40 AM

To: Lolonyon Akouete <info@smartinvestorsllc.com>

Cc: "loloact2@gmail.com" <loloact2@gmail.com>, denise Edwards <deniseedwards818@yahoo.com>

Hello Mr. Akouete,

Thank you for your patience, my office was closed from February 2, 2023, and reopened today. While it is personal information, I respond to your question and will share that I had a vacation planned over a year ago that I took and closed my office during that time.

The Town of Westborough has denied your request for a copy of the appraisal as this information is exempted from disclosure by law and should not be relevant for your use in obtaining financing as the appraisal is from several years ago.

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

Affidavit of JBS (with exhibits).pd

[Quoted text hidden]

[Quoted text hidden]



Lolonyon Akouete <info@smartinvestorsllc.com>

19 TL 000768 Town of Westborough v. Westborough SPE, LLC , et al.

Lolonyon Akouete <info@smartinvestorsllc.com>

Thu, Feb 9, 2023 at 3:00 PM

To: Iris Leahy <AttyLeahy@outlook.com>

Cc: "loloact2@gmail.com" <loloact2@gmail.com>, denise Edwards <deniseedwards818@yahoo.com>

Hello Ms. Leahy,

Thank you for your response.

My lender wants to confirm the value. It doesn't matter how old the appraisal is. Otherwise, I will have to obtain a new appraisal or a BPO (broker price opinion)

I am trying to prevent unnecessary expenses, just like the Town is not interested in increasing more legal fees in this case. If they refuse, we will also refuse to pay the \$6,000.00 they spend to obtain the appraisal when we redeem the property.

Thank you,
Lolonyon Akouete
1241 Deer Park Ave., Suite 1, #1051
North Babylon, NY 11703
info@smartinvestorsllc.com
(443) 447-3276

[Quoted text hidden]